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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,348	05/11/2005	Stephen Walter Marlow	RD8145US PCT	3134

43693 7590 06/30/2006

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THREE LITTLE FALLS CENTRE/1052
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WILMINGTON, DE 19808

EXAMINER

TENTONI, LEO B

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/506,348

Applicant(s)

MARLOW, STEPHEN WALTER

Examiner

Leo B. Tentoni

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-58 is/are pending in the application.
- 4a) Of the above claim(s) 55-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09072005;10112005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 41-54, drawn to a process of making mixed polyamide yarn.

Group II, claim(s) 55-58, drawn to mixed polyamide yarn.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The process of making the product set forth in claim 1 is not specifically adapted to make the product of group II since there is no extruding or titanium dioxide recited per se. Thus there can be no unity of invention when the process is not specifically adapted to make the product. Hence, lack of unity is held by the examiner under 37 CFR 1.475 and PCT Rule 13.

3. During a telephone conversation with Robert B. Furr, Jr.

(by Examiner Newton Edwards, GAU 1774), applicant's representative, on 26 January 2006 a provisional election was made without traverse to prosecute the invention of Group I, claims 41-54. Affirmation of this election must be made by applicant in replying to this Office action. Claims 55-58 are

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withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by either Duncan et al (U.S. Patent 3,457,341 A), Knopse (U.S. Patent 3,481,133 A), JP 04-024240 A or JP 09-003746 A.

Duncan et al (see the entire document, in particular, col. 1, line 56 to col. 5, line 25), Knopse (see the entire document, in particular, col. 2, line 1 to col. 4, line 49; Examples), JP 04-024240 A (see the abstract) and JP 09-003746 A (see the abstract) all teach a process of making a mixed polyamide yarn as claimed, including simultaneously (or separately) spinning two groups of polyamide filaments (from different polyamides), combining the groups of filaments by interlacing and winding up the interlaced filaments.

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6. Claims 41 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Burton et al (U.S. Patent 5,804,115 A).

Burton et al (see the entire document, in particular, col. 1, lines 17-20; col. 2, line 51; col. 3, line 8 to col. 8, line 67) teaches a process of making a mixed polyamide yarn as claimed, including simultaneously (or separately) spinning two groups of polyamide filaments (from different polyamides), combining the groups of filaments by interlacing and winding up the interlaced filaments.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 42-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Duncan et al (U.S. Patent 3,457,341 A), Knopse (U.S. Patent 3,481,133 A), JP 04-024240 A or JP 09-003746 A.

The claimed limitations would have been obvious to one of ordinary skill in the art at the time the invention was made in

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view of any one of the cited references principally in order to manufacture a mixed polyamide yarn for further processing.

9. Claims 42-52 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton et al (U.S. Patent 5,804,115 A).

The claimed limitations would have been obvious to one of ordinary skill in the art at the time the invention was made in view of Burton et al principally in order to manufacture a mixed polyamide yarn for further processing.

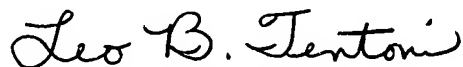
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Leo B. Tentoni
Primary Examiner
Art Unit 1732

lbt